

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

JOSE HUMBERTO SANTIAGO FORTIER  
ROSA GINORIS ORTOLAZA ROSARIO  
DEBTOR(S)

BANCO POPULAR DE PUERTO RICO  
MOVANT

VS.

JOSE HUMBERTO SANTIAGO FORTIER  
ROSA GINORIS ORTOLAZA ROSARIO  
ROBERTO ROMAN VALENTIN, TRUSTEE  
RESPONDENTS

CASE NO: 16-08870 EAG

CHAPTER: 7

Index \_\_\_\_

Lift of Automatic Stay for Cause under  
11 USC §362 (d) (1)

MOTION FOR RELIEF OF THE AUTOMATIC STAY UNDER 11 USC §362

TO THE HONORABLE COURT:

Comes now secured creditor, Banco Popular de Puerto Rico, and through the undersigned counsel respectfully alleges and prays as follows:

1. This Honorable Court has jurisdiction over the present controversy pursuant to 28 U.S.C., §157, 1334 and 11 U.S.C., §362.
2. On November 4, 2016, Debtors herein filed a bankruptcy petition under Chapter 7 of the Title 11 of the United States Bankruptcy code.
3. On July 31, 1999, debtors subscribed with Banco Popular de Puerto Rico, a loan agreement under account number 9126 for the amount of \$189,000.00. The loan is guaranteed with real property located at Calle Fraile 440, Ponce, Puerto Rico, which belongs to debtors.
4. At the moment of filing of this motion debtors are behind in their payments to Creditor, for a total arrearage of \$6,356.72, which includes \$5,696.88 in pre petition payments (the equivalent of 3 months), \$70.17 in post petition payments, and \$589.67 for legal fees &

costs. This amount will continue to increase as payments become due.

5. Debtor's have defaulted the terms and conditions under the loan agreement. Creditor's interest is being harmed by the continuation of the protection of the automatic stay.

6. Debtors are not on active military duty as evidenced by the Declarations of Servicemen's Civil Relief Act of 2003, which accompanies this motion.

7. By virtue of Section 362(d)(1) of the Bankruptcy Code, BANCO POPULAR DE PUERTO RICO, respectfully prays this Honorable Court for the lifting of the automatic stay.

**WHEREFORE**, Creditor respectfully requests from the Honorable Court authorize the lifting of the automatic stay in favor of Creditor.

RESPECTFULLY SUBMITTED,

In Guaynabo, Puerto Rico, this 28th day of November 2016.

NOTICE IS HEREBY GIVEN THAT IF NO WRITTEN REPLY OR OPPOSITION IS FILED AND SERVED WITHIN FOURTEEN (14) DAYS FROM DATE OF ISSUANCE OF SUMMONS, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT HEREIN.

#### CERTIFICATE OF SERVICE

I hereby certify that on this same date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Chapter 7 Trustee Roberto Roman Valentin (romanchpt7@gmail.com) and debtor's attorney Javier Vilarino (jvilarino@vilarinolaw.com).

/s/ Juan C. Fortuño Fas  
JUAN C. FORTUÑO FAS  
USDCPR 211913  
Counsel for Creditor  
P.O. BOX 9300 SANTURCE, PR 00908  
TEL: [787] 751-5290 / FAX: [787] 751-6155  
E-MAIL: bkfilings@fortuno-law.com

STATEMENT OF ACCOUNT					
<b>DEBTOR:</b>		JOSE H SANTIAGO-FOURTIER		<b>BPPR NUM:</b> XXXXXX9126	
<b>BANKRUPTCY NUM:</b>		16-08870		<b>FILING DATE:</b> 11/04/16	
<b>SECURED LIEN ON REAL PROPERTY</b>					
Principal Balance as of 09/01/16					134,926.35
Accrued Interest from 08/01/16 to 11/30/16					3,574.16
Interest:	8.125%	Accrued num. of days:	119	Per Diem:	30.034975
<b>Monthly payment to escrow</b>					
Hazard	\$0.00	Taxes	\$0.00	MIP	\$0.00
A&H	\$0.00	Life	\$0.00	Escrow Advance	\$0.00
<b>Total montly escrow</b>		\$0.00	Months in arrears	3	Escrow in arrears
					0.00
					Accrued Late Charge:
					946.08
<b>Advances Under Loan Contract:</b>					
Title Search	\$46.80	Tax Certificate	\$0.00	Inspection	\$0.00
					46.80
Other \$0.00					
Legal Fees:					375.00
<b>Total Estimate due as of 11/30/16</b>					<b>139,868.39</b>
<b>AMOUNT IN ARREARS</b>					
<b>PRE-PETITION AMOUNT:</b>					
3	payments of	\$1,443.00	each one		
					4,329.00
accumulated lated charges 946					946.08
<b>Advances Under Loan Contract:</b>					
Title Search	\$46.80	Tax Certificate	\$0.00	Inspection	\$0.00
					46.80
Other \$0.00					
Legal Fees:					375.00
<b>A = TOTAL PRE-PETITION AMOUNT</b>					<b>5,696.88</b>
<b>POST-PETITION AMMENDED:</b>					
0	payments of	\$1,443.00	each one		
					0.00
Late Charge 0					0.00
Post Petition Legal Fees					0.00
<b>B = TOTAL POST-PETITION AMOUNT</b>					<b>0.00</b>
<b>POST-PETITION AMOUNT:</b>					
0	payments of	\$1,443.00	each one		
					0.00
Late Charge \$70.17					70.17
Post Petition Legal Fees \$575.00					575.00
<b>C = TOTAL POST-PETITION AMOUNT</b>					<b>645.17</b>
<b>TOTAL AMOUNT IN ARREARS</b>					<b>6,342.05</b>
<b>OTHER INFORMATION</b>					
Next pymt due	09/01/16	Interest rate	8.125%	P & I	\$1,403.32
				Monthly late charge	\$70.17
Investor	Banco Popular	Property address	CALLE FRAILE 440 URB CAMINO D, PONCE PR 00731		
The subscribing representative of Banco Popular de Puerto Rico declares under penalty of perjury that according to the information gathered by Banco Popular de Puerto Rico the foregoing is true and correct.					
<i>José A. Colón Rivera</i> <b>BANCO POPULAR DE PUERTO RICO</b>				<b>11/17/16</b> <b>DATE</b>	



# Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: SANTIAGO FORTIER  
 First Name: JOSE  
 Middle Name: HUMBERTO  
 Active Duty Status As Of: Nov-22-2016

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
 Department of Defense - Manpower Data Center  
 4800 Mark Center Drive, Suite 04E25  
 Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

## More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

## Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

**Certificate ID: F4NBP194E45B930**



## Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: ORTOLAZA ROSARIO

First Name: ROSA

Middle Name: GINORIS

Active Duty Status As Of: Nov-22-2016

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
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**Certificate ID: X4J8F134A465SC0**